

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

295U0069

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1003** - 01/17/2013

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Rozum, Hawley, Hoffman, Magstadt, Olson (Betty), Schrempp, and Solum and Senators Rampelberg, Maher, Sutton, and Tieszen at the request of the Interim Oil and Gas Study Committee

1 FOR AN ACT ENTITLED, An Act to revise the purpose of the agriculture mediation program.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 54-13-1 be amended to read as follows:

4 54-13-1. Terms used in this chapter mean:

- 5 (1) "Agricultural land," a parcel of land larger than forty acres not located in any
6 municipality and used in farming or ranching operations carried on by the owner or
7 operator within the preceding three- year period for the production of farm products
8 as defined in subdivision 57A-9-102(a)(34) and includes wasteland lying within or
9 contiguous to and in common ownership with land used in farming or ranching
10 operations for the production of farming or ranching products;
- 11 (2) "Ag finance counselor," a person contracted by the Department of Agriculture
12 mediation program who is trained to assist in resolving agricultural loan disputes;
- 13 (3) "Agricultural property," agricultural land or personal property or a combination



thereof used in the pursuit of, or arising out of, or related to, the occupation of farming or ranching;

(4) "Borrower," an individual, corporation, trust, cooperative, joint venture, or any other entity entitled to contract who is engaged in farming or ranching and who derives more than sixty percent of total gross income from farming or ranching and who has borrowed from any one creditor on any single farm related debt in excess of fifty thousand dollars;

(5) "Creditor," any individual, organization, cooperative, partnership, trust, or state or federally chartered corporation to whom is owed debt in excess of fifty thousand dollars by a borrower. A judgment creditor with a judgment of fifty thousand dollars or more against a debtor with agricultural property is a creditor within the meaning of this chapter;

(6) "Federal land mediation," assistance provided to individuals or organizations seeking to mediate disputes with federal land management agencies;

(7) "Mediation," a process by which creditors and borrowers present, discuss, and explore practical and realistic alternatives to the resolution of a borrower's debts; ~~and~~

~~(7)~~(8) "Mediator," anyone responsible for and engaged in the performance of mediation pursuant to this chapter, who is trained and certified by the Department of Agriculture; and

(9) "Oil and gas mediation," assistance provided to individuals or organizations seeking to mediate disputes with oil and gas developers related to surface damages.

Section 2. That § 54-13-2 be amended to read as follows:

54-13-2. The Department of Agriculture shall administer an agriculture mediation program to:

- 1 (1) Provide assistance to borrowers and creditors who seek to use mediation as a method
2 for resolving loan disputes; ~~and~~
- 3 (2) Provide federal land mediation to ~~persons~~ individuals or organizations seeking to
4 mediate disputes with federal land management agencies concerning decisions made
5 by those federal agencies; and
- 6 (3) Provide oil and gas mediation to individuals or organizations seeking to mediate
7 disputes over surface damages related to oil or gas development.

8 The secretary of the Department of Agriculture shall promulgate rules pursuant to chapter
9 1-26 necessary for mediation, federal land mediation, and oil and gas mediation including the
10 establishment of fees, training requirements for mediators and ag finance counselors and their
11 certification, mediation request forms, and any other mediation procedures as may be necessary
12 for the prompt and expeditious mediation of agriculture related disputes, including the receipt
13 of funds pursuant to the Agricultural Credit Act of 1987.

14 The agriculture mediation program may not, as a condition to mediation, require that the
15 borrower of any creditor waive any respective legal or equitable remedies or rights.